

**September 4, 2012**

**Faculty Senate HOP Committee**

**Report on Review of Proposed HOP Additions or Revisions:**

**9.01 Nondiscrimination and Sexual Harassment and Sexual Misconduct**

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<p><b>Faculty Senate HOP Committee recommendation: REJECT proposed policy pending suggested clarifications and changes.</b></p>
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9.01 Relevant to faculty? Major.

Major point(s):

1. General: Accused persons, especially faculty, are extremely vulnerable to unfounded accusations by students for a number of reasons not related to any truthful violation (i.e., unhappy about a grade or rigorous faculty member). Such unfounded accusations of discrimination or sexual misconduct are serious and disturbing. The mere suggestion of such an accusation amongst students or on the internet (i.e., professor rating websites) could be enough to cause long-term damage to an instructor's reputation and affect their performance. It is disturbing to think that students, for example, could make such accusations with no foreseeable retribution. Yet, if the faculty, for example, assigns an appropriate poor grade, he/she can be accused of retaliation and the seriousness escalates.
  - a. Are there no protections for the accused in cases of defamation, criminal or otherwise?
  - b. In the case of a formal accusation through the procedures spelled out in HOP policy 9.01, what are the options for disciplinary action or counter-suit type outcomes for the wrongfully accusing?
    - i. This policy's proceedings can determine unfounded accusations, but because no recording is allowed per IX.D.4., would another formal proceeding be required?
    - ii. The accused (especially faculty) is allowed legal representation. Is the lawyer not allowed to take notes?
    - iii. Is legal representation provided to represent UTSA faculty in cases of this manner?
2. Section VIII. F.: Is the Student Counseling Services obligated to report a possible case to any other office or is confidentiality ensured.
3. Section IX. Procedures. A. and B. 1. b.: A 30-day filing limit is suggested. Is this 30-day limit a true limit? Are cases filed after 31 days not considered? This seems ambiguous for such an important policy and should be clarified.
4. Section IX. Procedures. B. 2. d.: The role(s) of the Vice President needs to be stated in the VIII. Responsibilities section.
5. Section IX. Procedures. B. 2. b. ii & iii.: When is the accused informed of the filed claim? This is unclear. As written, a complaint could be dismissed without the accused ever knowing there was a complaint filed.

- a. Related: What parties are informed that there has been a complaint filed? An accusation, founded or unfounded, could be damaging to the workplace. Clarification on the confidentiality should be maintained.

Minor Point(s):

1. Although EOS oversees all of these procedures, the VI. Contacts section lists Human Resources. It would be more appropriate to contact the EOS rather than HR, per the VIII Responsibilities section.
2. Section VIII. Responsibilities D. Title X Coordinator 2.: "Meets with students that wish to file complaints". Does this Coordinator meet only with students and not visitor, faculty, staff or others?
3. Section IX. Procedures. B. 2. e. v.: Is "v." supposed to be there???